

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

2008 FEB - 5 AM 10:28

MATTHEW OKONKWO,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent,

Civil Action No. 1:07cv1062-MHT

**MOTION TO REJECT GOVERNMENT'S RESPONSE AS UNTIMELY FILED**

COMES NOW, Petitioner Matthew Okonkwo, proceeding pro-se, and respectfully moves this Honorable Court to reject the Government's response to his motion filed under 28 U.S.C. section 2255 as moot for being time barred.

As grounds for this motion, Petitioner asserts as follows:

(1) This Honorable Court unequivocally stated in an ORDER of December 11<sup>th</sup> 2007 that "The United States Attorney is ORDERED to file a response to Okonkwo's motion within (30) days from the date of this order." However, the Government's response was dated and filed January 18, 2008. Although the government complied with this court's order in so far as it responded, its response was nonetheless about eight (8) days late; therefore, it violated this Court's specification as to when the response should have been submitted to the Court.

(2) This Honorable Court ordered Mr. Ben E. Bruner and Mr. Russell T. Duraski thusly;

"Accordingly, it is ORDERED that within (20)days from the date of this order,

Mr. Bruner and Mr. Duraski shall file with this court affidavits that addresses the claim of ineffective assistance of counsel presented against them in the section 2255 motion. Mr. Bruner and Mr. Duraski shall also furnish the United States Attorney and Mr. Okonkwo with copies of their affidavits.” However, Petitioner contends that Mr. Bruner and Mr. Duraski failed to furnish him with their affidavits as directed in the Court’s order. Needless to say, Mr. Bruner and Mr. Duraski deliberately ignored this Court’s order, as they did ignore Petitioner during trial and appellate proceedings.

(3) In light of this unprofessional practice of United States Attorney, Mr. Bruner, and Mr. Duraski, Petitioner prays this Honorable Court to grant this motion and motion to vacate under section 2255 because: (i) the government’s response was untimely filed, (ii) the attorney’s of record, Mr. Bruner and Mr. Duraski, willfully, knowingly and deliberately failed to comply fully with court’s order of December 11<sup>th</sup> 2007, and (iii) by their failure to follow court directives, they agreed, accepted and conceded that Petitioner’s claims of ineffective assistance of counsel are correct.

Respectfully submitted this 30<sup>th</sup> day of January, 2008.



MAATHEW S. OKONKWO  
Petitioner, pro-se  
A# 27906495  
Etowah County Jail, Unit 9  
827 Forest Avenue,  
Gadsden, AL 35901

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**CERTIFICATE OF SERVICE**

I hereby certify that I have, this 30<sup>th</sup> day of January 2008, served a copy of the foregoing motion to reject government's response in support of motion under section 2255 in paper format, by placing the copy of the same in the United States Postal Service, deposited in the mail box at Etowah County Jail, postge paid and properly addressed as follows:

Mr. Andrew O. Schiff,  
Assistant United States Attorney,  
United States Attorney's Office,  
One Court Square, Suite 201,  
Montgomery, Alabama 36104



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Matthew S. Okonkwo  
Petitioner,  
Etowah County Jail,  
827 Forest Avenue,  
Gadsden AL 35901

Matthew Okonkwo  
27906495  
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P. O. Box 711  
Montgomery, AL 36101-0711

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